

**UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION**

No. 12-md-2323 (AB)

MDL No. 2323

**THIS DOCUMENT RELATES TO:**

**Seau, et al. v. National Football League et al.,  
No. 13-cv-01531-AB**

**REQUEST FOR STATUS CONFERENCE PURSUANT TO FRCP 16**

The Seau family hereby requests that the Court schedule a status conference, as soon as possible, pursuant to Federal Rule of Civil Procedure 16. More than two years ago, the Seau family filed suit in San Diego Superior Court, seeking justice and recovery for their unique individual claims stemming from the death of their father, Tiaina B. Seau, Jr. ("Junior Seau"), and did not seek inclusion in any class action. Shortly thereafter, the family's claims were removed to federal court and then transferred into the Multi-District Litigation ("MDL").<sup>1</sup> At the time of transfer, in March 2013, the MDL was already well under way. For instance, the Plaintiff's Steering Committee had already been established, a Master Administrative Long-Form Complaint was already on file, the National Football League ("NFL") had already moved to dismiss the MDL claims on preemption grounds, and that motion had already been fully briefed. Accordingly, the Seaus have had no input into or control over the MDL, nor the settlement that followed.<sup>2</sup> They have opted out of a class action settlement that did not address their particular claims – including the children's wrongful death claims – and have been

<sup>1</sup> The Seau family did not oppose transfer into the MDL, but did so "without prejudice to or waiver of any jurisdictional argument Plaintiffs may wish to assert." *See Seau, et al. v. National Football League, et al.*, Case No. 13-cv-0478-W (RBB) (S.D. Cal.), Dkt. No. 4.

<sup>2</sup> The Seau family, through their counsel, attempted to participate in the settlement, to ensure that all claims, including wrongful death claims were being represented. Specifically, in August 2013, counsel for the Seau Family reached out to Plaintiffs' counsel and separately, to the NFL's counsel, via mediator Judge Phillips, to share the family's concerns that wrongful death plaintiffs' interests were not being represented in the settlement. The NFL refused to discuss the Seau family's concerns, citing the protective order.

prevented from proceeding with their claims for more than two years. The Seaus are eager to move forward. Therefore, they request a status conference pursuant to Federal Rule of Civil Procedure 16 to discuss the issues relevant to their claims. These include 1) remand of the Seau family's claims to the Southern District of California now that more than 95% of the claims against the NFL have been resolved via settlement, so that they can pursue their unique individual action; 2) alternately, if the Court is not inclined to grant remand, the Seaus would like to address the status of the NFL's previous motion to dismiss and request an opportunity to provide supplemental briefing to address their unique preemption arguments and the relevant case law that has developed since completion of the briefing. A status conference, either in person or via telephone, will permit the Seaus to address these issues jointly with Defendants and the Court before the Court issues any rulings affecting their rights.

Dated: April 22, 2015

**RESPECTFULLY SUBMITTED:**

/s/ Steven M. Strauss

Steven M. Strauss

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**CERTIFICATE OF SERVICE**

I certify that I caused a copy of the foregoing document to be electronically filed with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

Dated: April 22, 2015

/s/ Steven M. Strauss  
Steven M. Strauss

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